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COURTS

Juvenile Proceedings: Change the Definition of "Child" to Include 18-Year-Old Individuals Charged with Status Offenses

CODE SECTION:	O.C.G.A. § 15-11-2 (amended)
BILL NUMBER:	HB 470
ACT NUMBER:	268
GEORGIA LAWS:	2003 Ga. Laws 640
SUMMARY:	The Act expands the definition of "child" under the Juvenile Proceedings Chapter of Title 15 to include 18-year-old individuals charged with status offenses. Prior to the Act's passage, juvenile courts' jurisdiction covered only children up to the age of 17 charged with status offenses.
EFFECTIVE DATE:	July 1, 2003

History

Representative Lynn Westmoreland of the 86th district's interest in this legislation arose from a situation involving a constituent's 16-year-old daughter.¹ The girl had difficulties in school and had general behavioral problems.² She was held back from promotion to the next grade level and was frequently in trouble.³

The daughter told her mother of her intent to leave home once she turned 17.⁴ After the daughter turned 17, the two had a fight, leading to the police threatening to prosecute the mother for unlawfully restraining her daughter.⁵ The mother thought that she was acting lawfully in preventing her 17-year-old daughter from leaving, but she was not.⁶

1. See Telephone Interview with Rep. Lynn Westmoreland, House District No. 86 (Apr. 11, 2003) [hereinafter Westmoreland Interview].

2. See *id.*
3. See *id.*
4. See *id.*
5. See *id.*
6. See *id.*

According to Representative Westmoreland, the mother only wanted to provide her daughter with counseling.⁷ The mother sought help from the juvenile courts, only to find that the juvenile courts lacked jurisdiction over a 17-year-old individual not classified as a “deprived child.”⁸ To meet the statutory definition of a deprived child, a juvenile must be “without proper parental care” or supervision.⁹

Frequently, the juvenile courts see parents brought into court under a deprivation complaint, only to discover that the parents have not neglected the child but have only failed in their good-faith efforts to control and supervise the child.¹⁰ These parents often request court assistance in obtaining help for the child.¹¹ If a child is under the age of 17, the Code authorizes the juvenile court to order counseling, detention, or other supervisory control.¹² However, if the child is 17 years old, the court lacks jurisdiction unless it declares the child a deprived child.¹³ The court is then faced with either (a) declaring a juvenile a deprived child, despite evidence that the child’s parents have earnestly tried to care for the child or (b) turning the child away from the juvenile court system.¹⁴

Representative Westmoreland introduced a bill in 1999 to redefine “child” in the Juvenile Proceedings Chapter of Title 15 to include 17-year-old individuals.¹⁵ Representative Westmoreland’s bill also provided for changes to related Code sections 15-11-5, 15-11-5.1, 15-11-37, 15-11-39, 15-11-49, and 15-11-65.¹⁶ However, juvenile court representatives resisted this change because of the anticipated increased caseload, and the bill died in committee.¹⁷

7. See Westmoreland Interview, *supra* note 1.

8. See *id.*; 2000 Ga. Laws 20, § 1, at 21 (formerly found at O.C.G.A. § 15-11-2 (2001)).

9. See 2000 Ga. Laws 20, § 1, at 23 (formerly found at O.C.G.A. § 15-11-2 (2001)).

10. See Audio Recording of House Proceedings, Mar. 6, 2003 (remarks by Rep. Stephanie Benfield), at <http://www.state.ga.us/services/leg/audio/2003archive.html> [hereinafter House Audio].

11. See *id.*

12. See *id.*

13. See *id.*

14. See *id.*

15. See HB 268, as introduced, 1999 Ga. Gen. Assem.

16. See *id.*

17. See Telephone Interview with Rep. Stephanie Benfield, House District No. 56 (May 30, 2003).

HB 470

Representatives Stephanie Benfield, Lynn Westmoreland, Mack Crawford, Pat Gardner, and Mary Margaret Oliver of the 56th, 86th, 91st, 42nd, and 56th districts, respectively, sponsored HB 470.¹⁸ The bill was introduced on February 18, 2003, and the Speaker assigned the bill to the House Judiciary Committee.¹⁹ As introduced, the bill redefined "child" in Code section 15-11-2 to include individuals under the age of 18.²⁰ The bill also contained language affecting the juvenile courts' jurisdiction under Code sections 15-11-4, 15-11-28, 15-11-30.2, 15-11-48, 15-11-62, 15-11-63, and 15-11-73.²¹

House Judiciary Committee Substitute

The House Committee amended the bill by substitute to delete all references to Code sections other than Code section 15-11-2 and to remove the redefinition of a child in paragraph (2)(A).²² Though that definition no longer included 17-year-old children, the House Committee substitute proposed to expand the definition of a child under Code paragraph 15-11-2(2)(C) to include a child alleged to be a deprived child or alleged to be a status offender.²³ A status offender, as defined by Code subsection 15-11-2(11), is a child charged with "an offense that would not be a crime if it were committed by an adult."²⁴ The House Committee favorably reported the substituted bill on March 4, 2003.²⁵

Representative Benfield presented the House Committee substitute to the House on March 6, 2003.²⁶ In a brief address, Representative Benfield explained the discrepancy in the law between deprivation actions and delinquency violations, as well as the reason redefining

18. See HB 470, as introduced, 2003 Ga. Gen. Assem.

19. See State of Georgia Final Composite Status Sheet, HB 470, Apr. 25, 2003.

20. See HB 470, as introduced, 2003 Ga. Gen. Assem.

21. See *id.*

22. Compare HB 470, as introduced, 2003 Ga. Gen. Assem., with HB 470 (HCS), 2003 Ga. Gen. Assem.

23. Compare HB 470, as introduced, 2003 Ga. Gen. Assem., with HB 470 (HCS), 2003 Ga. Gen. Assem.

24. See 2000 Ga. Laws 20, § 1, at 24 (formerly found at O.C.G.A. § 15-11-2(11) (2001)). Status offenses include running away from home, curfew violations, and habitual disobedience of parents. *Id.*

25. See State of Georgia Final Composite Status Sheet, HB 470, Apr. 25, 2003.

26. See *id.*; House Audio, *supra* note 10 (remarks by Rep. Stephanie Benfield).

child across the board to include all individuals under the age of 18 would not be practical.²⁷ There were no questions directed to Representative Benfield, and the House passed the bill by a vote of 150 to 1.²⁸

The bill was introduced in the Senate on March 24, 2003, and then referred to the Senate Judiciary Committee.²⁹ The Senate Committee favorably reported the bill without amendment on April 11, 2003.³⁰ Senator Charles C. Clay of the 37th district addressed the Senate regarding HB 470 on April 17, 2003, fielding one question from Senator Peg Blich of the 7th district, who asked Senator Clay to explain the meaning of “status offender.”³¹ The Senate passed the bill unanimously.³²

The Act

The Act amends Code section 15-11-2 to expand the definition of a child to include alleged status offenders under the age of 18.³³ Code section 15-11-2 defines individuals who fall under the juvenile courts’ jurisdiction.³⁴

Before the Act’s passage, Code section 15-11-2 defined a child as an individual who is either: (1) under the age of 17, (2) “[u]nder the age of 21 . . . who committed an act of delinquency before reaching the age of 17” and was placed under the supervision of the judicial system, or (3) under the age of 18 and alleged to be a deprived child.³⁵ The Act adds language to the Code paragraph 15-11-2(2)(C) definition of “child” to include an individual “[u]nder the age of 18

27. See House Audio, *supra* note 10 (remarks by Rep. Stephanie Benfield).

28. See *id.*; State of Georgia Final Composite Status Sheet, HB 470, Apr. 25, 2003. Representative Day cast the lone Nay vote. See Georgia House of Representatives Voting Record, HB 470 (Mar. 6, 2003).

29. See State of Georgia Final Composite Status Sheet, HB 470, Apr. 25, 2003.

30. See *id.*

31. See *id.*; Audio Recording of Senate Proceedings, Apr. 17, 2003 (remarks by Sen. Charles C. Clay and Sen. Peg Blich), at <http://www.state.ga.us/services/leg/audio/2003archive.html>.

32. See State of Georgia Final Composite Status Sheet, HB 470, Apr. 25, 2003; Georgia Senate Voting Record, HB 470 (Apr. 17, 2003).

33. Compare 2000 Ga. Laws 20, § 1, at 21 (formerly found at O.C.G.A. § 15-11-2 (2001)), with O.C.G.A. § 15-11-2 (Supp. 2003).

34. See 2000 Ga. Laws 20, § 1, at 21 (formerly found at O.C.G.A. § 15-11-2 (2001)).

35. See *id.*

years, if alleged to be a 'deprived child' or a 'status offender' as defined by this Code section."³⁶

Status offenses which 17-year-olds can be charged with include: (1) running away from home, (2) unruly behavior, (3) curfew violations, and (4) habitual disobedience of parents.³⁷ Prior to the Act's passage, juvenile courts lacked jurisdiction over a 17-year-old individual exhibiting this type of behavior unless the child was already under the juvenile courts' supervision or could be declared a deprived child.³⁸

The Honorable Gregory Adams, Chief Judge of the DeKalb County Juvenile Court, predicted that the Act would increase the number of runaway and unruly child cases brought before the juvenile courts.³⁹ Judge Adams considered the bill to be good legislation that will allow the juvenile courts to provide more services to families.⁴⁰

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36. Compare 2000 Ga. Laws 20, § 1, at 21 (formerly found at O.C.G.A. § 15-11-2 (2001)), with O.C.G.A. § 15-11-2 (Supp. 2003).

37. See O.C.G.A. § 15-11-2(11) to (12) (2003). One traditional status offense, the underage consumption of alcohol, does not fall under a strict interpretation of the Juvenile Chapter's definition of "status offense" because Code subsection 15-11-2(11) defines "status offense" as an act which would not be a crime if it were committed by an adult. Because 18-, 19-, and 20-year-old individuals can be charged with underage consumption of alcohol, this offense is not limited to children and is thus not a "status offense" as defined by Code section 15-11-2. See *id.*

38. Compare 2000 Ga. Laws 20, § 1, at 21 (formerly found at O.C.G.A. § 15-11-2 (2001)), with O.C.G.A. § 15-11-2 (Supp. 2003).

39. See Telephone Interview with the Honorable Gregory Adams, Chief Judge, DeKalb County Juvenile Court (June 4, 2003).

40. See *id.*